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August 27, 2020

**VIA ECF**Honorable Margo K. Brodie  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201Re: *Federal Defenders of New York, Inc. v. Federal Bureau of Prisons, et al.*, No. 19-cv-00660 (E.D.N.Y.)

Dear Judge Brodie:

I write to update the Court on the parties' ongoing efforts to address several of the important issues raised in this litigation through mediation.

**I. Background**

I have continued to receive call and videoconference log data from both parties. I have not held any mediation calls this week, but continue to have active discussions with the Federal Defenders, Inc. and their counsel and the government and representatives of the Metropolitan Detention Center ("MDC") and Metropolitan Correctional Center ("MCC").

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My communications with the Federal Defenders and the government focused on the following topics:

1. The current status of in-person legal visitation at both institutions.
2. The execution of the current protocol for scheduling and placing attorney-client phone calls at the MDC and the MCC.
3. The parameters of the completed site visit at the MDC and upcoming site visit to the MCC.

## **II. Telephonic Contact**

The parties continue to schedule and facilitate legal phone calls under the Court Protocol for Attorney Calls and Teleconference Hearings. Pursuant to the Protocol, attorney-client calls were scheduled by Federal Defenders for afternoon slots of one-half hour each from 12pm to 3pm at the MDC and 1 to 3:30 pm at the MCC. As Your Honor is aware, the parties have also made efforts to expand legal call hours beyond the times provided in the Protocol. *See* ECF Nos. 70 & 76.

### **A. MCC**

According to the information I have from MCC, MCC scheduled 88 calls between August 19 and August 26, 2020.<sup>1</sup> 79 calls were completed, seven were attempted but not completed, and two were not completed for unknown reasons. We are working with the institution to obtain more information about these calls. Federal Defenders did not report that there were any calls that have been pending for longer than 48 hours.<sup>2</sup> Additionally, Federal Defenders report some technical issues this week.

### **B. MDC**

According to the information I have from MDC, MDC scheduled 183 calls between August 20 and August 25, 2020.<sup>3</sup> 157 calls were completed, nine were attempted but not completed, four were cancelled or rescheduled, and 13 were not completed for unknown reasons. We are working with the institution to obtain more information about these calls. The Federal Defenders report that 23 requests to schedule

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<sup>1</sup> The data from the MCC for this week includes some call logs from August 19, 2020 that were not available by the time of filing of last week's Twenty-First Mediation Status Report.

<sup>2</sup> Federal Defenders submitted call and VTC overflow data for the MDC for the period between August 18 and August 25, 2020. Federal Defenders did not submit any overflow data for the MCC.

<sup>3</sup> The MDC did not submit call log information for August 26, 2020. That data will be included in the report next week.

calls were pending for more than 48 hours. Additionally, Federal Defenders report some technical issues this week.

The parties continue to discuss the issue of the overflow calls.

### **III. Videoconferencing**

#### **A. MCC**

According to MCC records, there were 12 videoconferences scheduled to take place between August 19 and August 26, 2020. Eight were completed as scheduled and four were not completed for unknown reasons. We are working with the institution to obtain more information about these VTCs. Federal Defenders did not report that there were any VTC requests that have been pending for longer than 48 hours. Additionally, Federal Defenders report some technical issues this week.

#### **B. MDC**

According to MDC records, there were 48 videoconferences scheduled to take place between August 19 and August 25, 2020.<sup>4</sup> 43 were completed as scheduled, four were attempted but not completed, and one was cancelled. Federal Defenders report that 11 requests to schedule VTCs were pending for more than 48 hours. Federal Defenders also report some privacy and technical issues this week. We will review these reports with the parties.

The parties continue to discuss the issue of the overflow VTCs.

### **IV. Site Visits**

As noted in last week's Report, members of the Mediation, plaintiff's and government teams conducted a site visit to the MDC last week. Plaintiffs submitted requests and questions based upon that visit last week. This week the government provided responses to the issues raised. I will continue discussions with the parties on the issues raised. We are working to confirm the site visit to the MCC for next week.

Respectfully,

/s/ Loretta E. Lynch  
Loretta E. Lynch

cc: Sean Hecker, Kaplan, Hecker & Fink  
Seth D. Eichenholtz, U.S. Attorney's Office (E.D.N.Y.)

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<sup>4</sup> The MDC did not submit videoconference log information for August 26, 2020. That data will be included in the report next week.

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